



Shoreland Zoning Newsletter



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Share the News

Please distribute to the Select Board, Planning Board, Appeals Board, and the Code Enforcement Officer. We're online! New and old Newsletters are available at: <http://www.maine.gov/dep/blwq/docstand/szpage.htm#publicationssz>

About the News

For over 15 years, the Shoreland Zoning Newsletter has been helping town officials better understand common issues regarding shoreland zoning administration and enforcement. Your feedback is always welcome. Submit comments and topics for Your Questions to stephenie.mcgarvey@maine.gov

Is Your Ordinance and Map Updated?

The July 1, 2009 deadline for updating shoreland zoning ordinances and maps, consistent with the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances* as amended May 1, 2006, is fast approaching. A list of municipalities that have completed the required updates is in this issue. Nearly all of Maine's municipalities are working on the required updates; many have completed the ordinance text updates but are still working to adopt required map amendments. If your municipality has adopted all updates but you're not on the list, please contact the Shoreland Zoning Unit; contact info is on the last page of the Newsletter.

If you know your municipality hasn't adopted the updates yet, here's some more information for you. The Shoreland Zoning Unit is available to answer your questions as you draft the ordinance text and map. We can also review drafts before they go up for adoption. Drafts can be submitted either electronically or in hard-copy form. Use the contact informa-

tion on the last page.

As the spring approaches, and more town meetings occur, and more city councils convene, the Shoreland Zoning Unit will be experiencing a rapid increase in the number of adopted ordinances submitted for final review. The sooner you submit any drafts, the faster the turn-around time will be.



For most municipalities, the ordinance update will include amendments to the Official Shoreland Zoning Map. Wetlands that have

been newly rated for moderate/high value habitat for inland waterfowl and wading birds must now be zoned for Resource Protection.

How is your municipality dealing with the necessary map changes? The Department recommends that municipalities move away from adopting hand-drawn or other manually created maps. Such maps are

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Amendments May Affect Municipal Forms

If your town shoreland zoning ordinance has not already been amended, by now the amendment process should be well on its way to comply with the July 1st deadline. As your municipality prepares the amendments, you should have noticed the change regarding appeals of

enforcement-related matters.

Specifically, a violator or complainant no longer has the ability to appeal an enforcement matter to the local board of appeals. Enforcement matters will have to be appealed in Superior Court.

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Updates Continued

time-consuming to produce; and often times when amendments are made, a whole new map must be manually produced.

The Department recommends that maps be computer or electronically generated. Mapping technology is readily available to municipalities, even those small, out-of-the-way towns, for creating digitized maps. The Maine Office of GIS maintains a catalog of necessary data for the creation of an electronically produced map.

If your municipality has its own computer mapping capabilities, you might easily amend the map locally. For municipalities needing outside mapping assistance, we recommend that you contact a contractor/agency that can help you with this process. There are numerous private companies and most regional planning commissions/councils of governments have computer mapping capabilities, as well as some conservation associations and soil and water conservation districts. Electronically produced maps can be easily amended and reproduced, making them well worth the cost.

If, however, your municipality decides, for one reason or another, to stay with a manually produced map, and that map was originally produced by the Department of Environmental Protection in the early-mid 1990s, then we're willing to make copies available to municipalities showing the areas with moderate/high value freshwater wetland ratings. Once the municipality makes the appropriate zoning changes to the draft copy, we can provide clean copies for adoption. The Shoreland Zoning Unit is also willing to modify the original mylars once the amendments are approved. While this is not the recommended course of action, we realize that some smaller municipalities will not produce an electronic map. The Shoreland Zoning Unit aims to ensure that a municipality has a suitable map, so we'll help these municipalities by modifying existing manually drawn maps.

If you'd like assistance in modifying one of the original DEP-created maps please contact the Shoreland Zoning Unit staff person in your region with the contact information on the last page of this Newsletter. 🐸

Forms continued

This provision is optional, because if it is not adopted, there is more administrative work required on the municipality's part; therefore, the municipality is being more restrictive by allowing these appeals to be made to the local board of appeals. However, the Department strongly encourages municipalities to adopt the change.

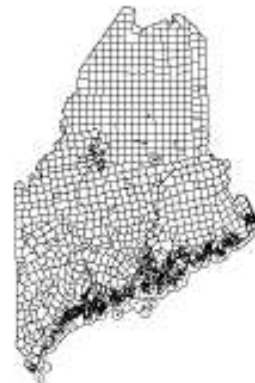
Imperatively, if the provision is adopted, there is one other important change that also must be made. That is, many municipalities' Notice of Violation letters and forms include a clause that describes the process a violator may follow to appeal the pending enforcement matter to the board of appeals. Once your municipality adopts this provision, please remember to update the corresponding enforcement-related forms, letters, and templates to direct appeal of enforcement matters to Superior Court. 🐸

Updates Completed

Bingham
Bradley
Boothbay Harbor
Bristol
Bustins Island
Carrabasset Valley
Chebeague Island
Dayton
Dover-Foxcroft
Harrison
Hiram
Kennebunkport
Limington
Litchfield
Lovell
Minot
Monmouth
New Sharon
Newry

North Yarmouth
Ogunquit
Parsonsfield
Ripley
Rome
Roque Bluffs
Saint Agatha

Saint George
Sherman
Starks
Sweden
Thomaston
Topsham
Trenton
Wilton
Yarmouth
York



Get your municipality added to the list, contact us today! Pg 4.

One CEO to Another

Are you looking for a full-time CEO position?
Are you a Municipal Official looking for a part-time CEO?
This sounds like a common dilemma. One solution is to work with neighboring municipalities in the search for a CEO, with the aim of employing a CEO who then gets a net full-time job. CEOs with these types of positions share their stories with you:

After starting employment with the Town of Lincoln, Jerry Davis became the CEO for Greenbush. Greenbush has more river frontage and wetlands compared to Lincoln, which has a lot of great ponds. "I believe that this makes me a more effective [CEO]," he says, as does the experiences of different types of local government; "Lincoln has a Town Council and Greenbush has a Board of Selectman."

John Larson agrees, "Working in [multiple] Towns will give the CEO a broad spectrum of situations and scenarios which enables the CEO to guide the applicants thru the permitting process with what works and what doesn't." Larson finds cost sharing to benefit the towns, sometimes more than the CEO, because different towns have different wages. Another caution he offers interested individuals is that "each town likes to be autonomous"; he's learned how to transfer his knowledge town to town without verbally advocating for one town's procedures in another town. Of the six towns Larson works in, only one thought to hire him from speaking to a neighboring town office. While towns may like to be self-directing, communicating with neighboring towns may secure a CEO in your town. 🐸

Recent Court Rulings

Undue Hardship (Camp, et al. v TO Shapleigh): A lot lacking a structure does not create a unique circumstance allowing the construction of the structure.

Findings of Fact (Comeau, Lisa, et al. v TO Kittery): Findings of fact cannot be discerned from meeting minutes, which are "not always in a logical progression". Boards should write separately the findings of fact on their decisions.

Landowner Notification (Brackett v TO

*Consider a
procedure for
notifying
abutters of
building permits.*

Rangeley): Municipalities should consider a procedure for notifying abutters of the issuance of a building permit. Not being notified of the issuance of a building permit may

be grounds for extending the appeal period.

Undue Hardship (MC Assoc. v Cape Elizabeth): A reduction in property value is not the effect of all practical value being stripped of the property; and therefore, not undue hardship. 🐸

Your Questions

Q: What does the amendment process mean for a municipality that has a State-Imposed Ordinance and/or Map?

A: First, what is a State-Imposed Ordinance (SIO)? The Shoreland Zoning Act mandates municipalities to enact shoreland zoning ordinances and maps; when a municipality fails to do so, the Department is charged with adopting a suitable ordinance and/or map for the municipality. Currently just 54 of Maine's municipalities have either a State-Imposed Ordinance or Supplemental Ordinance and/or Map. The SIO comes with a Department Order that requires the municipality to administer and enforce the SIO.

For municipalities that currently have a SIO, now is an opportune time to adopt your own. If an ordinance is not adopted by July 1st, the Department will impose the amendments required. Your municipality will be notified of the proposed SIO.

Some municipalities have determined that they are unable to adopt their own and are interested in having a SIO. The disadvantages of a SIO include the fact that it may not be molded well to your municipality's characteristics and only the Board of Environmental Protection is able to make amendments, taking a minimum of three months to complete.

Eitherway, the Shoreland Zoning Unit would be very appreciative in getting a phone call or email to let us know how your municipality is planning to proceed so we can plan accordingly. 🐸

Notes from the Shoreland Zoning Unit

The Shoreland Zoning Unit staff strive to assist municipal officials in administering and enforcing shoreland zoning ordinances. This spring many ordinances will be coming in for preliminary and final review, we'll have less time to devote to helping you in the field.

Whenever you investigate an alleged violation, take field notes and lots of pictures. Write up your thoughts immediately after your visit. If you need our help, these pictures will be very useful in getting you a timely response. You can send us pictures electronically or by regular mail. If we still need to do a site visit to help you, we'll contact you to set up a time.

If you adopt a new ordinance/map replacing an old ordinance/map, sending clean, attested copies of each will be sufficient for DEP review. If only amendments were made, in ad-

dition, please send copies that show the changes. This speeds up our review to get notice of approval sooner.

Reminder:

Even if you received approval of a draft ordinance from us. A clean, attested copy adopted needs to be mailed for final approval. The draft review is optional, but the final review is required by the Act. We have 45 days to review the attested copy. The Ordinance is not effective until it's approved or until the 45 days have passed. 🐢

Contact Us

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1-800-452-1942	287-7730
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1-888-769-1137	941-4116
Portland	Mike Morse
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Presque Isle	Eric Hitchcock
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